

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Taijah Jackson,

Petitioner

v.

Clark County Detention Center,

Respondent

Case No.: 2:23-cv-01797-APG-VCF

**Order Dismissing Petition for Writ of
Habeas Corpus without Prejudice**

Taijah Jackson has filed a pro se 28 U.S.C. § 2241 habeas corpus petition. ECF No. 1-1. I grant his application to proceed *in forma pauperis*. ECF No. 1. But almost none of Jackson's claims in his petition implicate his rights under § 2241. To the extent he has included any allegations that sound in habeas corpus, the claims appear unexhausted, so federal abstention is appropriate. I therefore dismiss the petition without prejudice.

Background¹

Jackson is apparently detained at the Clark County Detention Center (CCDC) in Las Vegas on child abuse and assault charges. *See* ECF No. 1-1 at 1; Las Vegas Township Justice Court case no. 23-CR-063583. His case, *State of Nevada v. Taijah Jackson*, remains pending before the justice court.

Jackson sets forth numerous claims in his petition. But he mostly complains about the conditions of his confinement at CCDC, including claims of sexual abuse and deprivation of

¹ The procedural history in this section is derived from Jackson's allegations as well as his criminal matter in the Las Vegas Township Justice Court. I take judicial notice of the online docket records of the state justice court, which may be accessed by the public online at: <https://www.lvjcpc.clarkcountynv.gov>.

1 basic necessities, adequate medical care, and a Kosher diet. Such claims implicate his civil
2 rights under 42 U.S.C. § 1983. In fact, Jackson appears to recognize this, as he subsequently
3 filed a § 1983 civil rights complaint in this court. 2:23-cv-01584-MMD-EJY. That complaint
4 includes many of the claims in his § 2241 petition in this case. This petition includes allegations
5 against his public defender that he was coerced into a no-contest plea. Such a claim could
6 implicate his right to effective assistance of counsel, a claim properly brought in a habeas
7 petition.

8 **Discussion**

9 A federal habeas petitioner incarcerated by a state must give the state courts a fair
10 opportunity to act on each of his claims before he presents them in a federal habeas petition.
11 Thus, federal courts will not consider a petition for habeas relief until the petitioner has properly
12 exhausted his available state remedies for all claims raised. *See Boyd v. Thompson*, 147 F.3d
13 1124, 1128 (9th Cir. 1998). A claim remains unexhausted until the petitioner has given the
14 highest available state court the opportunity to consider the claim through direct appeal or state
15 collateral-review proceedings. *O’Sullivan v. Boerckel*, 526 U.S. 838, 844–45 (1999); *Peterson v.*
16 *Lampert*, 319 F.3d 1153, 1158 (9th Cir. 2003) (en banc). To properly exhaust state remedies on
17 each claim, the habeas petitioner must “present the state courts with the same claim he urges
18 upon the federal court.” *Picard v. Connor*, 404 U.S. 270, 276 (1971). The federal constitutional
19 implications of a claim, not just issues of state law, must have been raised in the state court to
20 achieve exhaustion. *Woods v. Sinclair*, 764 F.3d 1109, 1129 (9th Cir. 2014); *Castillo v.*
21 *McFadden*, 399 F.3d 993, 999 (9th Cir. 2005) (fair presentation requires both the operative facts
22 and federal legal theory upon which a claim is based). A claim is not exhausted unless the
23 petitioner has presented to the state court the same operative facts and legal theory upon which

1 his federal claim is based. *Bland v. California Dep't of Corrections*, 20 F.3d 1469, 1473 (9th Cir.
2 1994).

3 Here, Jackson does not state that he has pursued any action in state court. I also note that
4 he was arrested on the current charges in August 2023; it is impossible that he could have
5 exhausted his claims in just a few months.

6 But even if I assume that Jackson exhausted any claims cognizable in federal habeas
7 corpus, his petition seeks federal judicial intervention in a pending state criminal proceeding,
8 which is simply not available to him. *Cf. e.g., Sherwood v. Tomkins*, 716 F.2d 632, 634 (9th Cir.
9 1983); *Carden v. Montana*, 626 F.2d 82, 83–85 (9th Cir. 1980). The *Younger* abstention
10 doctrine prevents federal courts from enjoining pending state court criminal proceedings, even if
11 there is an allegation of a constitutional violation, unless there is an extraordinary circumstance
12 that creates a threat of irreparable injury. *Younger v. Harris*, 401 U.S. 37, 53–54 (1971). The
13 Supreme Court of the United States has instructed that “federal-court abstention is *required*”
14 when there is “a parallel, pending state criminal proceeding.” *Sprint Commc’ns, Inc. v. Jacobs*,
15 571 U.S. 69, 72 (2013) (emphasis added); *Gilbertson v. Albright*, 381 F.3d 965 (9th Cir. 2004)
16 (federal courts generally abstain from granting any relief that would interfere with pending state
17 judicial proceedings). Injuries are only irreparable if the threat to a petitioner’s federally
18 protected rights cannot be eliminated through his defense of the criminal case. *Younger*, 401 U.S.
19 at 46.

20 This case does not present extraordinary circumstances to overcome the requirement of
21 abstention. Importantly, Jackson’s allegations that he was coerced into a plea are contradicted by
22 the record because he has not entered a plea in his justice court case. Further, defendants in state
23 criminal proceedings routinely allege that those proceedings violate their constitutional rights,

1 including fundamental rights, which makes this a regular occurrence, not an extraordinary
 2 circumstance. Jackson's situation is no different in substance from that of any criminal
 3 defendant facing the potential loss of constitutional rights—including the most fundamental right
 4 to liberty—in a pending criminal prosecution. In addition, pretrial motion practice or defenses at
 5 trial could ameliorate any threat to his federally protected rights. He thus faces no extraordinary
 6 or irreparable injuries, so abstention is required.

7 Because the charges against Jackson are still pending, dismissal of this action without
 8 prejudice will not materially impact the analysis of any issue in a later-filed habeas proceeding or
 9 otherwise result in substantial prejudice. Thus, this petition is dismissed without prejudice.
 10 Reasonable jurists would not find this determination to be debatable or wrong, and I decline to
 11 issue a certificate of appealability.

12 Conclusion

13 I THEREFORE ORDER that Jackson's application to proceed *in forma pauperis* [ECF
 14 No. 1] is **GRANTED**. Jackson's second application to proceed *in forma pauperis* [ECF No. 3]
 15 is **DENIED** as moot.

16 I FURTHER ORDER the Clerk of Court to file the petition for writ of habeas corpus
 17 [ECF No. 1-1].

18 I FURTHER ORDER that the petition is **DISMISSED without prejudice**.

19 I FURTHER ORDER that a certificate of appealability is denied.

20 I FURTHER ORDER the Clerk of the Court to:

- 21 • **DIRECT INFORMAL ELECTRONIC SERVICE** upon the respondents by
- 22 adding Nevada Attorney General Aaron D. Ford as counsel for the respondents
- 23 and sending a notice of electronic filing to his office for the petition [ECF No. 1-

1] and this order. No response is required from the respondents other than to respond to any orders of a reviewing court.

- **ENTER FINAL JUDGMENT** dismissing this action and **CLOSE THIS CASE.**

DATED THIS 28th day of November, 2023.



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE